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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,323	08/02/2001	Joshua J.D. Martin	088305-0135	4997

7590 11/15/2006

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EXAMINER

ART UNIT	PAPER NUMBER
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DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliant Appeal Brief (37 CFR 41.37)	Application No. 09/920,323	Applicant(s) MARTIN ET AL.	
	Examiner Andrew Joseph Rudy	Art Unit 3627	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 07 August 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.
EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☒ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☒ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

Continuation of 10. Other (including any explanation in support of the above items):

The STATUS OF CLAIMS item is not correct. Also, it should only recite the status of the claims reflected from the March 9, 2006 Final rejection.

The STATUS OF AMENDMENTS item does not recite a positive affirmation that no amendment(s) subsequent to the March 9, 2006 Final rejection were filed by Appellant.

The CLAIMS APPENDIX should be listed but once. Thus, a correct copy of the claims should follow the initial CLAIMS APPENDIX heading.

The SUMMARY OF THE CLAIMED SUBJECT MATTER portion does refer to the specification in juxtaposition to the drawing figures and reference characters properly.

The GROUNDS OF REJECTION portion is not correct, i.e. claims 1-6 were rejected under 35 USC 102(e). However, Appellants ARGUMENTS from page 5 of the Brief are noted. The Goodwin et al., US 2003/0220867, reference is not prior art. The application of Goodwin rejection is unfortunate mistake as it clearly does not constitute prior art. Thus, if Appellant sends in a corrected Brief, the Goodwin reference is hereby withdrawn. The other rejections are, presently, still applicable.

A handwritten signature in black ink, reading "Andrew Joseph Rudy". The signature is fluid and cursive, with the first name "Andrew" and last name "Rudy" being more prominent than the middle name "Joseph".

Andrew Joseph Rudy
Primary Examiner
Art Unit 3627